

TTAB

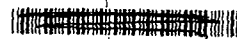
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

U.S Trademark Registration No.: 2,554,110  
Trademark: EXP

GIBSON GUITAR CORP.  
Petitioner

v.

J. D'ADDARIO & CO., INC.  
Registrant



04-14-2003

U.S. Patent & TMO/TM Mail Rpt Dt. #22

92/041,175

Cancellation No.: 92041688

Box TTAB  
NO FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

TRADEMARK TRIAL AND  
APPEAL BOARD  
03 APR 24 AM 9:31

MOTION TO CONSOLIDATE PENDING INTER PARTES PROCEEDINGS

Petitioner moves to consolidate the above-captioned proceeding with presently pending Cancellation No. 92041175 for purposes of trial and pre-trial proceedings.

Registrant has obtained Federal registration for its trademark EXP for strings for musical instruments (Registration No. 2,554,110 in International Class 15) and EXP COATED for strings for musical instruments (Registration No. 2,554,111 in International Class 15).

Petitioner has filed Petitions for Cancellation of Registration Nos. 2,554,110 and 2,554,111. Except for those preliminary portions of the Petitions which refer to a particular one of Registrant's registrations, the alleged grounds for the petitions

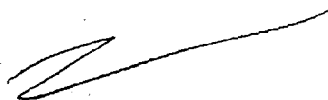
are substantially identical. Petitioner filed these at about the same time. However, the processing of the latter cancellation took much longer by the PTO.

37 C.F.R. § 2.116(a) provides that procedure and practice in inter partes (trademark) proceedings shall be governed by the Federal Rules of Civil Procedure wherever applicable and appropriate and except as otherwise provided.

Fed. R. Civ. P. 42(a) provides that when actions involving a common question of law or fact are pending before a court may order all the actions consolidated.

Therefore, pursuant to Fed. R. Civ. P. 42(a) in light of 37 C.F.R. § 2.116(a), a motion to consolidate these proceedings is proper and should be granted.

Respectfully submitted,



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Attorneys for Petitioner

### **CERTIFICATE OF EXPRESS MAIL**

I hereby certify that this Motion to consolidate along with two copies is being deposited with the United States Postal Service, via Express Mail, Label No. EV 028931205 US on April 14, 2003, addressed to:

BOX TTAB  
Assistant Commissioner of Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513



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Edward D. Lanquist, Jr.

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing motion to consolidate is being mailed via first class mail, postage prepaid to:

Gerald T. Bodner, Esq.  
Bodner & O'Rourke, LLP  
425 Broadhollow Road  
Melville, New York 11747

~~14<sup>th</sup>~~  
this the 15<sup>th</sup> day of April, 2003



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Edward D. Lanquist, Jr.